

II  
D-1

**AGENDA ITEM  
REQUEST/JUSTIFICATION FORM**

*(To be completed by requesting Department)*  
*Forward all requests to Sharon Bourke, LC2 Civic Center*  
**DEADLINE SUBMITTAL IS 4:00 P.M. WEDNESDAY**

Agenda item: Supplemental Agreement No.3 to Engineering Agreement with Lamp, Rynearson and Associates, Inc. for County Project No. C-28(474)B – State St – 126<sup>th</sup> to 129<sup>th</sup>.

Date to be on agenda: June 17, 2014

Exact wording to be used for the agenda: Tom Doyle, County Engineer,  
requests approval of Supplemental Agreement No. 3 to Engineering Agreement  
with Lamp, Rynearson and Associates, Inc. for County Project No. C-28(474)B –  
State Street – 126<sup>th</sup> Street to 129<sup>th</sup> Street.

Action requested: Approve Supplemental Agreement No. 3 to the Engineering  
Agreement with Lamp, Rynearson and Associates, Inc. for  
County Project No. C-28(474)B.

Amount requested: \$ \_\_\_\_\_ Object Code: \_\_\_\_\_

Is item in current year's budget? Yes \_\_\_\_\_ No \_\_\_\_\_

Does this item commit funds in future years? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, explain: \_\_\_\_\_

If an agreement or contract, has the County Attorney reviewed  
and approved? Yes X No \_\_\_\_\_

Previous action taken on this item, if any: \_\_\_\_\_

Recommendations and rationale or action: \_\_\_\_\_

Will anyone speak on behalf of this item, if so who? Tom Doyle

If this is a rush agenda item, please explain why: \_\_\_\_\_

Submitted by (Name & Dept.): Tom Doyle, Co. Engineer Ext. 6372

Date submitted: 6/11/14

List Attachments: Supplemental Agreement No. 3 (3), Board letter and Resolution  
(Attach resolution and all pertinent documentation; i.e. contract, agreement, memorandums, etc.)

Certified Copies of the resolution should be sent to (please include name and addresses of all individuals or departments that need a certified copy): Engineer

*Completed by receiving office*

Received in Administrative Office: Date 6/11/14 Time \_\_\_\_\_

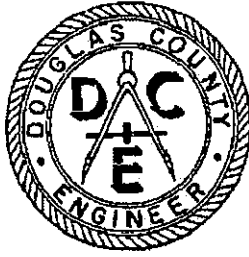
**BOARD OF COUNTY COMMISSIONERS  
DOUGLAS COUNTY, NEBRASKA**

**BE IT RESOLVED BY THIS BOARD OF COUNTY COMMISSIONERS THAT:**

the Chairman be and is hereby authorized to execute Supplemental Agreement No. Three to the Engineering Agreement between the County of Douglas, Nebraska and Lamp, Rynearson and Associates, Inc., a corporation of the State of Nebraska with an office at 14710 West Dodge Road, Suite 100, Omaha, NE 68154 for Douglas County Project No. C-28(474)B, State Street – 126<sup>th</sup> Street to 129<sup>th</sup> Street.

Douglas County requires additional engineering services to prepare final design plans and specifications and additional engineering services for construction administration, survey, testing, and miscellaneous tasks not included as part of the Engineering Agreement scope of services. The cost for Supplemental Agreement No. Three for final design services is not to exceed \$14,523.50.

DATED THIS 17<sup>th</sup> DAY OF JUNE, 2014.



**TOM DOYLE**  
**DOUGLAS COUNTY ENGINEER**

15505 West Maple Road  
Omaha, Nebraska 68116-5173  
402-444-6372  
Fax: 402-444-6244  
engineer@douglascounty-ne.gov

June 17, 2014

Douglas County Board of Commissioners  
Omaha/Douglas Civic Center  
Omaha, Nebraska 68183

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RE: DOUGLAS COUNTY PROJECT NO. C-28(474)B  
STATE STREET – 126<sup>TH</sup> STREET TO 129<sup>TH</sup> STREET  
SUPPLEMENTAL AGREEMENT NO. THREE

Commissioners:

Your approval is recommended on Supplemental Agreement No. Three (3) between Douglas County Nebraska and Lamp, Rynearson & Associates, Inc. on Douglas County Project No. C-28(474)B.

Douglas County and Lamp Rynearson & Associates are parties to an original agreement dated October 23, 2012 for the preliminary design of the 132<sup>nd</sup> and State Street improvements. The project consists of the widening of State Street from west of 126<sup>th</sup> Street to east of 132<sup>nd</sup> Street and the construction of the intersection of 132<sup>nd</sup> Street and Reynolds Street.

Douglas County requires additional engineering services to prepare final design plans and specifications and additional engineering services for construction administration, survey, testing, and miscellaneous tasks not included as part of the original scope of services.

The cost for Supplemental Agreement No. Three (3) for final design services is not to exceed \$14,523.50.

Respectfully submitted,

for Thomas D. Doyle, P.E.  
Douglas County Engineer

TDD:JDK:me  
Attachments - Supplemental Agreement No. 3 (3), Board Letter, and Resolution

SUPPLEMENTAL AGREEMENT NUMBER THREE  
TO  
ENGINEERING AGREEMENT  
FOR  
PREPARATION OF PLANS FOR  
132<sup>ND</sup> AND STATE STREET IMPROVEMENTS  
DOUGLAS COUNTY, NEBRASKA  
PROJECT NO. C-28(474)B

THIS SUPPLEMENTAL AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014 by and between Douglas County, Nebraska, and Lamp, Rynearson & Associates.

WITNESSETH:

1. WHEREAS, Douglas County, and Lamp, Rynearson & Associates are parties to an agreement dated the twenty third day of October, two thousand twelve for the preliminary design of the 132<sup>nd</sup> and State Street Improvements, see attached Exhibit "A".

2. WHEREAS, the parties require additional engineering services to prepare final designs, plans and specifications for construction and other miscellaneous tasks not included as part of the original scope of services.

3. WHEREAS, Lamp, Rynearson & Associates, Inc. (Consultant) selected thru a "Qualification Based Selection process, is willing to provide these additional engineering services in accordance with the terms hereinafter provided.

NOW THEREFORE, in consideration of these facts, the parties hereto agree as follows:

1. GENERAL DESCRIPTION OF SUPPLEMENTAL SCOPE AND CONTROL OF THE WORK

The Consultant, upon receipt of Notice to Proceed shall provide all services required under this Supplemental Agreement for the project as outlined in the attached Exhibit "B". Scope of Services, hereby made a part of this Supplemental Agreement.

2. FEES AND PAYMENTS

Compensation of work as described herein shall be made to the Consultant for standard hourly rates and direct costs as outlined in the attached Exhibit "C", not to exceed a total of \$14,523.50.

3. GENERAL TERMS OF AGREEMENT

All terms and conditions in the hereinabove referenced agreement between the parties shall be binding to all parties with the exception of the amendments contained above.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their proper officials there unto duly authorized as of the dates below indicated

EXECUTED by Consultant this 13<sup>th</sup> day of June, 2014

ATTEST:

Scott W. Austin  
Scott W. Austin, P.E.  
Senior Project Manager

By: Loren M. Steenson  
Loren M. Steenson, P.E.  
Senior Vice President

EXECUTED by Douglas County this \_\_\_\_\_ day of \_\_\_\_\_, 2014

ATTEST:

\_\_\_\_\_  
Douglas County Clerk

By: \_\_\_\_\_  
Chair, Board of Commissioners

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy County Attorney

## ENGINEERING AGREEMENT

DOUGLAS COUNTY, NEBRASKA  
PREPARATION OF PLANS FOR  
132<sup>ND</sup> AND STATE STREET IMPROVEMENTS  
DOUGLAS COUNTY PROJECT NO. C-28(474)B

THIS AGREEMENT, entered into this 23<sup>rd</sup> day of October, 2012 by and between the firm of Lamp, Rynearson and Associates, Inc., a corporation of the State of Nebraska with an office at 14710 West Dodge Road, Suite 100, Omaha, NE 68154, hereinafter referred to as the "Consultant", and the County of Douglas, Nebraska acting by and through its Engineer, hereinafter referred to as the "County".

### WITNESSETH:

WHEREAS, the County desires to engage the Consultant to render professional engineering services for the preparation of plans for the above named project.

WHEREAS, the Consultant is willing to perform such work in accordance with the terms hereinafter provided, and does represent that it is in compliance with the Nebraska statutes relating to the registration of professional engineers.

NOW THEREFORE, in consideration of these facts, the parties hereto agree as follows:

### SECTION 1. DEFINITIONS

Whenever in this Agreement the following terms are used, or pronouns used in their stead, they will have the meaning here given;

"CONSULTANT" means Lamp, Rynearson and Associates, Inc. whose business and mailing address is 14710 West Dodge Road, Suite 100, Omaha, NE 68154.

"COUNTY" means Douglas County, Nebraska, the County Engineer, or an authorized representative.

The "EFFECTIVE DATE" of this Agreement shall mean the date mentioned in the first paragraph of this document.

To "ABANDON" the work means that the County has determined that conditions or intentions as originally existed have changed and that the work as contemplated herein is to be renounced and deserted for as long in the future as can be foreseen.

To "SUSPEND" the work means that the County has determined that the conditions or intentions as originally existed have changed and that the work as contemplated herein should be ceased on a temporary basis. This cessation, or holding in this undetermined state, will prevail until the County determines to abandon or terminate the work or to reinstate it under the conditions as defined in this agreement.

To "TERMINATE" or the "TERMINATION" of this Agreement is the cessation or quitting of this Agreement based upon action or failure of action on the part of the Consultant as defined herein and as determined by the County.

## SECTION 2. GENERAL DESCRIPTION OF SCOPE AND CONTROL OF WORK

The Consultant shall perform, upon the receipt of Notice to Proceed from the County, Survey and Design services, and all other services as described in the Exhibit A – Scope of Services to prepare construction plans for Phase I of the 132nd and State Street Improvements, hereby made a part of this Agreement.

## SECTION 3. TIME OF BEGINNING AND COMPLETION

The Consultant shall begin work on the project upon receipt of a written Notice-to-Proceed. The Consultant shall complete all the work based on the Project Schedule as shown in Exhibit C. The Project Schedule will be adjusted based on the actual Notice-to-Proceed date. The completion time will not be extended because of any avoidable delay attributed to the Consultant, but delays attributable to the County or other agencies may constitute a basis for an extension of time. The time of completion of the work shall be equitable adjusted for delays not the fault of the Consultant.

The County shall review the work performed in a diligent and timely manner with review time limited to fourteen (14) calendar days.

Delays grossly affecting the completion of the work within the time specified for completion, attributable to or caused by the Consultant or the County, shall be considered as cause for termination of the agreement by the other.

## SECTION 4. STANDARD PRACTICES AND REQUIREMENTS

It is mutually agreed that the County has continuing rights of work progress inspections, and to any and all additions, deletions, changes, elaborations, or modifications of the services performed under the terms of this Agreement.

## SECTION 5. CHANGE OF PLAN, ABANDONMENT, SUSPENSION, AND TERMINATION

The County has the absolute right to abandon the project or to change the general scope of work as defined in Section 2 at any time and such action on its part will in no event be deemed a breach of agreement.

The County may suspend or terminate this Agreement at any time. Such suspension or termination may be effected by the County giving the Consultant fifteen (15) days written notice. Should the project be suspended for thirty (30) days or more, the Consultant's fee and time for completion shall be equitably increased.

If the County abandons or subtracts from the work, the Consultant will be compensated on the basis of the percentage complete applied directly to the net fee shown in Exhibit B, Hour and Fee Schedule, plus the actual costs as defined in Section 7. In determining the percentage of work completed, the County will consider the work performed by the Consultant prior to abandonment or termination to the total amount of work contemplated by this Agreement.

Additions to the Scope of Services as defined in Exhibit A will require negotiation of supplemental agreement or agreements. For any work beyond the Scope of Services as outlined in Exhibit A, the Consultant shall document the additional work, estimate the cost to complete the work, and receive written approval from the County before the Consultant begins the work.

#### SECTION 6. OWNERSHIP OF DOCUMENTS

The Client acknowledges the Consultant's construction documents, including electronic files, as work papers of the Consultant and the Consultant's instruments of professional service. Nevertheless, all surveys, plans, specifications, maps, computations, charts, electronic data, and other project data prepared or obtained under the terms of this Agreement are the property of the County, and the Consultant shall deliver them to the County without restriction or limitation as to further use upon completion of the services and payment in full of all monies due to the Consultant. Once the Consultant delivers project documents as outlined in this Agreement to the County, the Consultant will no longer be liable for the storage or care of the project documents.

The County acknowledges that such data may not be appropriate for use on an extension of the work covered by this Agreement or on other projects. Any use of the data or plans for any purpose other than that for which it was intended without the opportunity for the Consultant's approval will be at the County's sole risk and without legal exposure or liability to the Consultant.

#### SECTION 7. FEES AND PAYMENTS

- A. For performance of the professional services as outlined in this agreement, the Consultant will be paid standard hourly rates and direct costs not to exceed a total of \$49,613.00.
- B. The Consultant shall be responsible to determine when a change in the work scope necessitates an increase in the aggregate contract amount. When the Consultant determines that an increase is in order, he will be required to estimate the additional costs necessary to complete the additional work; document the reasons for this increase, and receive prior approval from the County in writing before expenditures beyond the aggregate amount are incurred. The County shall not be obligated to reimburse the Consultant for costs, in excess of the aggregate amount, that have not been approved prior to expenditure.
- C. The Consultant shall submit original monthly invoices to the County for approval. The monthly payments shall be based on the satisfactory prosecution of the work as substantiated by monthly progress reports, provided only if directed to do so by the County. The Consultant shall submit a final voucher for the project no later than 90 days after the close of the Consultant's fiscal year during which the project is completed.
- D. The Consultant shall maintain, and also require that its subconsultants/subcontractors maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred and shall make such

material available for examination at its office at all reasonable times during the agreement period and for three years from the date of final payment of this Agreement. Such materials must be available for inspection by the County and when requested, the Consultant shall furnish copies.

#### SECTION 8. FORBIDDING USE OF OUTSIDE AGENTS

The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the County has the right to annul this Agreement without liability or, in its discretion, to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

#### SECTION 9. RESPONSIBILITY FOR CLAIMS AND LIABILITY

The Consultant agrees to save harmless the County from all claims and liability due to the negligent activities of the Consultant or those of the Consultant's agents or employees in the performance or work under this Agreement. In this connection, the Consultant shall carry insurance in the following kinds and amounts:

- |                                    |  |
|------------------------------------|--|
| 1. Comprehensive Auto Liability    | \$500,000 each accident                            |
| 2. Comprehensive General Liability | \$1,000,000 each Occurrence, \$2,000,000 aggregate |
| 3. Workmen's Compensation          | Statutory  |
| 4. Professional Liability          | \$1,000,000 each Claim and Annual Aggregate        |
| 5. Umbrella Policy                 | \$1,000,000 each Occurrence and Annual Aggregate   |

The insurance specified above shall be maintained until the Consultant's work has been completed and accepted by the County. The Consultant shall furnish proof of insurance coverage to the County.

#### SECTION 10. NON-RAIDING CLAUSE

The Consultant shall not engage the services of any person or persons presently in the employ of the County or State for work covered by this Agreement without the prior written consent of the employer of the persons.

#### SECTION 11. GENERAL COMPLIANCE WITH LAWS

The Consultant hereby agrees to comply with all federal, state, and local laws and ordinances applicable to the work.



#### SECTION 12. PROFESSIONAL REGISTRATION AND SUBCONTRACTS

The Consultant shall affix the seal of a registered professional engineer licensed to practice in the State of Nebraska, on all plans, documents, and specifications prepared under this Agreement except for those plans designed by the County.

The Consultant agrees to provide these professional services using staff personnel with specialized skills, experience, and professional qualifications. Any work subcontract, other than that specifically provided by this Agreement, shall first have the written approval of the County.

#### SECTION 13. MEDIATION

Any disputes between the County and the Consultant, not disposed of by this Agreement between the parties, may be settled by mediation as provided by Nebraska statutes. This agreement shall be governed in all aspects by the laws of the State of Nebraska, and the venue for any litigation with respect thereto shall be in the courts of Douglas County, Nebraska.

#### SECTION 14. FAIR EMPLOYMENT PRACTICES ACT

The Consultant agrees to abide by the Nebraska Fair Employment Practices Act, as provided by Neb.Rev.Stat. §§48-1101 through 48-1126, which is hereby made a part of and included in this Agreement by reference.

#### SECTION 15. SUCCESSORS AND ASSIGNS

This Agreement is binding on successors and assigns of either party.

#### SECTION 16. SUBLETTING, ASSIGNMENT, OR TRANSFER

As outlined in the Scope of Services, Fee Schedule and Organizational Chart Thiele Geotech and EA Engineering, Science and Technology, Inc. (EA) will be performing work on this project. Thiele Geotech will be conducting the geotechnical investigation and preparing the report. EA will be performing the wetland delineation, permitting and assisting with design of the proposed improvements. Any other subletting, assignment, or transfer of any professional services to be performed by the Consultant is hereby prohibited unless prior written consent of the County is obtained.

#### SECTION 17. NONDISCRIMINATION

In accordance with the Nebraska Fair Employment Act, Neb. Rev. Stat. §48-1122, the Consultant agrees that neither it nor any of its subcontractors or agents shall discriminate against any employee, or applicant for employment to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions, or privileges or employment because of the race, color, religion, sex, disability, or national origin of the employee or applicant.

#### SECTION 18. DRUG FREE WORKPLACE POLICY

The Consultant assures the County that it has established and maintains a drug free workplace policy.

#### SECTION 19. COUNTY SUPERVISION

It is hereby mutually agreed that the County shall have responsible supervision of all the services included herein, but no employee of the Consultant or any of its subcontractors or persons working under the Consultant's direction is or shall be deemed to be an employee of the County. The Consultant shall, at all times, have or cause to have in force worker's compensation insurance covering all its employees, those of any subcontractor, and those of anyone under its direction and control.

#### SECTION 20. PAYMENTS FOR SERVICES, MATERIAL, AND EQUIPMENT

The Consultant agrees to pay all persons, firms, or corporations, having contracts directly with the Consultant or with subcontractors of the Consultant. Payments will be made by the Consultant for all just claims due them, for services rendered and material and equipment furnished, and for the payment of materials and equipment rented and or used in the performance of this contract.

#### SECTION 21. ASSESSMENT FOR TAXATION

Consultant shall comply with, and shall cause to be complied with §77-1323 of The Reissued & Revised Statutes of Nebraska, 1943, as amended. As directed and as requested by the County, the Consultant shall furnish a certified statement, that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the County where assessed. During the performance under this contract, additional such statements shall be furnished by the Consultant as may be required by such law or as may be required by the County or its authorized agent.

#### SECTION 22. AMENDMENTS OR ADDITIONS

No amendments or additions shall be made to this Agreement except in writing. Future agreements between the parties must likewise be in writing.

#### SECTION 23. FINANCIAL INTEREST

No elected official or any officer or employee of the County shall have a financial interest, direct or indirect, in any County contract. A violation by the Consultant in this regards shall, in addition to constituting employee malfeasance, be cause for the County to unilaterally terminate or void this Agreement.

#### SECTION 24. WORK ELIGIBILITY

The consultant agrees to use a federal immigration verification system (eg. E-Verify Program or equivalent) to determine work eligibility of new employees physically performing services within the State of Nebraska pursuant to this contract.

IN WITNESS WHEREOF, the parties hereto have caused presents to be executed by their proper officials thereunto duly authorized as to the date indicated below.

EXECUTED by the Consultant this 12<sup>th</sup> day of October, 2012

ATTEST:

Scott W. Austin  
Scott W. Austin, PE  
Senior Project Manager

By Loren M. Steenson  
Loren M. Steenson, PE  
Senior Vice President

EXECUTED by Douglas County, Nebraska this 23<sup>rd</sup> day of October, 2012

ATTEST:

[Signature]  
Douglas County Clerk

By Mark Kift  
Chair, Board of Commissioners

APPROVAL AS TO FORM:

Quiana M. Carl  
Deputy County Attorney

**Exhibit "B"**

**SCOPE OF SERVICES**

**DOUGLAS COUNTY, NEBRASKA  
PREPARATION OF FINAL PLANS FOR  
132<sup>ND</sup> AND STATE STREET IMPROVEMENTS – PHASE 1 AND 2  
April 29, 2014**

**Engineering Design Services**

- A. Plan Revisions and Additional Design Options on 132<sup>nd</sup> Street, State Street
- B. Stakeholder Meetings – Douglas County, Omaha Public Schools, SID 499, Kirkham, Michael and Lamp, Rynearson & Associates, Inc.
- C. Construction Cost Estimates for Each Design Option
- D. Intersection Design for 132<sup>nd</sup> St & Reynolds St

**Exhibit "C"**

**HOUR AND FEE SCHEDULE**

**DOUGLAS COUNTY, NEBRASKA  
PREPARATION OF FINAL PLANS FOR  
132<sup>ND</sup> AND STATE STREET IMPROVEMENTS  
DOUGLAS COUNTY PROJECT NO. C-28(474)B  
APRIL 29, 2014**

<b>Labor Costs:</b>		<b>Hours</b>	<b>Billing Rate</b>	<b>Amount</b>
	<b>Classification Title</b>			
	Principal	1	\$202.00	\$202.00
	Project Manager	25	\$143.00	\$3,575.00
	Senior Professional Engineer	50	\$126.19	\$6,309.50
	Technician I	51	\$87.00	\$4,437.00
<b>TOTALS</b>		<b>127</b>		<b>\$14,523.50</b>

**Total Contract Fees**

**\$14,523.50**